

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Cedric Scott Anderson,

Plaintiff,

ORDER

vs.

St. Luke's Hospital, et al.,

Civ. No. 19-106 (MJD/LIB)

Defendants.

This matter is before the Court on the Report and Recommendation by United States Magistrate Judge Leo I. Brisbois dated November 19, 2019 [Doc. No. 82] addressing Defendants' motions to dismiss (Doc. Nos. 24, 30, 39 and 43). Plaintiff objects to portions of the Report and Recommendation and Defendants have submitted their responses.

First, the Court notes that Plaintiff does not object to the Magistrate Judge's recommendation to grant the motions to dismiss brought by the St. Louis County Sheriff's Department, the City of Duluth Police Department, Gold Cross Ambulance and EMT's Pete Reynolds and Jonathan Koop. Accordingly, those parties will be dismissed from this case.

In addition, Plaintiff does not object to the dismissal of his Eighth Amendment claim (Count Two) and his False Imprisonment claim against Officer Holton (Count Seven), and those claims will be dismissed with prejudice.

Plaintiff does, however, object to the recommendations that his claims against the City of Duluth, the named officers, St. Luke's Hospital and Dr. Jonathan Schultz be dismissed.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court will adopt the Report and Recommendation in its entirety. Because the claims against the City, the named officers, St. Luke's Hospital and Dr. Schultz will be dismissed without prejudice, Plaintiff may bring a motion to amend his complaint to address any deficiencies in pleading.

IT IS HEREBY ORDERED:

1. Defendant St. Louis County Sheriff's Department's Motion to Dismiss

[Docket No. 24] is **GRANTED** and Plaintiff's Complaint as alleged against Defendant St. Louis County Sheriff's Department is **DISMISSED with prejudice.**

2. Defendants City of Duluth, City of Duluth Police Department, Officer

Josiah Bellows, Officer Andrew Graves, Officer Gayle Holton, Officer

Carla Josephson, Officer Benjamin Nordskog, Officer Steven Ring, Officer

June Sackette, Officer Todd Simmons, and Officer Christopher Verhel's

Motion to Dismiss [Docket No. 30] is **GRANTED in part and DENIED in**

part, and the following claims are dismissed: Plaintiff's Complaint as

alleged against Defendant City of Duluth Police Department is

DISMISSED with prejudice; Plaintiff's Complaint as alleged against

Defendant City of Duluth and Officers Josiah Bellows, Andrew Graves,

Carla Josephson, Benjamin Nordskog, Steven Ring, June Sackette, Todd

Simmons, and Christopher Verhel is **DISMISSED without prejudice**;

Plaintiff's Eighth Amendment "cruel and unusual punishment" claim as

alleged against Defendant Officer Gayle Holton is **DISMISSED without**

prejudice; Plaintiff's "False Imprisonment" claim as alleged against

Defendant Officer Gayle Holton is **DISMISSED without prejudice**.

3. Defendants Gold Gross Ambulance, Johnathan Koop, and Pete Reynolds'

Motion to Dismiss [Docket No. 39] is **GRANTED** and Plaintiff's Complaint

as alleged against Defendants Gold Gross Ambulance, Johnathan Koop, and Pete Reynolds is **DISMISSED without prejudice**.

4. Defendants Johnathan Shultz and St. Luke's Hospital's Motion to Dismiss [Docket No. 43] is **GRANTED** and Plaintiff's Complaint as alleged against Defendants Johnathan Shultz and St. Luke's Hospital is **DISMISSED without prejudice**.
5. The sole remaining claim in the present case is Plaintiff's 42 U.S.C. §1983 excessive force claim against Defendant Officer Gayle Holton.

DATED: January 16, 2020

s/ Michael J. Davis

Michael J. Davis

United States District Court